

SECOND REGULAR SESSION

SENATE JOINT RESOLUTION NO. 30

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRAHAM.

Read 1st time December 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3759S.011

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment to article III of the Constitution of Missouri relating to stem cell research.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on
2 Tuesday next following the first Monday in November, 2006, or at a special
3 election to be called by the governor for that purpose, there is hereby submitted
4 to the qualified voters of this state, for adoption or rejection, the following
5 amendment to article III of the Constitution of the state of Missouri:

Section A. Article III, Constitution of Missouri, is amended by adding
2 thereto one new section, to be known as section 38(d), to read as follows:

**Section 38(d). 1. This section shall be known as the "Missouri
2 Stem Cell Research and Cures Initiative".**

**3 2. To ensure that Missouri patients have access to stem cell
4 therapies and cures, that Missouri researchers can conduct stem cell
5 research in the state, and that all such research is conducted safely and
6 ethically, any stem cell research permitted under federal law may be
7 conducted in Missouri, and any stem cell therapies and cures permitted
8 under federal law may be provided to patients in Missouri, subject to
9 the requirements of federal law and only the following additional
10 limitations and requirements:**

11 (1) No person may clone or attempt to clone a human being;

**12 (2) No human blastocyst may be produced by fertilization solely
13 for the purpose of stem cell research;**

**14 (3) No stem cells may be taken from a human blastocyst more
15 than fourteen days after cell division begins; provided, however, that
16 time during which a blastocyst is frozen does not count against the**

17 fourteen-day limit;

18 (4) No person may, for valuable consideration, purchase or sell
19 human blastocysts or eggs for stem cell research or stem cell therapies
20 and cures;

21 (5) Human blastocysts and eggs obtained for stem cell research
22 or stem cell therapies and cures must have been donated with
23 voluntary and informed consent, documented in writing;

24 (6) Human embryonic stem cell research may be conducted only
25 by persons that, within one hundred eighty days of the effective date
26 of this section or otherwise prior to commencement of such research,
27 whichever is later, have:

28 (a) Provided oversight responsibility and approval authority for
29 such research to an embryonic stem cell research oversight committee
30 whose membership includes representatives of the public and medical
31 and scientific experts;

32 (b) Adopted ethical standards for such research that comply with
33 the requirements of this section; and

34 (c) Obtained a determination from an Institutional Review Board
35 that the research complies with all applicable federal statutes and
36 regulations that the Institutional Review Board is responsible for
37 administering;

38 (7) All stem cell research and all stem cell therapies and cures
39 must be conducted and provided in accordance with state and local
40 laws of general applicability, including, but not limited to, laws
41 concerning scientific and medical practices and patient safety and
42 privacy, to the extent that any such laws do not (i) prevent, restrict,
43 obstruct, or discourage any stem cell research or stem cell therapies
44 and cures that are permitted by the provisions of this section other
45 than this subdivision, to be conducted or provided, or (ii) create
46 disincentives for any person to engage in or otherwise associate with
47 such research or therapies and cures.

48 3. Any person who knowingly and willfully violates subdivision
49 (1) of subsection 2 of this section commits a crime and shall be
50 punished by imprisonment for a period of up to fifteen years or by the
51 imposition of a fine of up to two hundred fifty thousand dollars, or
52 both. Any person who knowingly and willfully violates subdivisions (2)
53 or (3) of subsection 2 of this section commits a crime and shall be

54 punished by imprisonment for a period of up to ten years or by the
55 imposition of a fine of up to one hundred thousand dollars, or both. A
56 civil action may be brought against any person who knowingly and
57 willfully violates any of subdivisions (1) to (6) of subsection 2 of this
58 section, and the state in such action shall be entitled to a judgment
59 recovering a civil penalty of up to fifty thousand dollars per violation,
60 requiring disgorgement of any financial profit derived from such
61 violation, and/or enjoining any further such violation. The attorney
62 general shall have the exclusive right to bring a civil action for such
63 violation. Venue for such action shall be the county in which the
64 alleged violation occurred.

65 4. Each institution, hospital, other entity, or other person
66 conducting human embryonic stem cell research in the state shall (i)
67 prepare an annual report stating the nature of the human embryonic
68 stem cells used in, and the purpose of, the research conducted during
69 the prior calendar year, and certifying compliance with subdivision (6)
70 of subsection 2 of this section; and (ii) no later than June 30 of the
71 subsequent year, make such report available to the public and inform
72 the secretary of state how the public may obtain copies of or otherwise
73 gain access to the report. The report shall not contain private or
74 confidential medical, scientific, or other information. Individuals
75 conducting research at an institution, hospital, or other entity that
76 prepares and makes available a report pursuant to this subsection
77 concerning such research are not required to prepare and make
78 available a separate report concerning that same research. A civil
79 action may be brought against any institution, hospital, other entity, or
80 other person that fails to prepare or make available the report or
81 inform the secretary of state how the public may obtain copies of or
82 otherwise gain access to the report, and the state in such action shall
83 be entitled as its sole remedy to an affirmative injunction requiring
84 such institution, hospital, other entity, or other person to prepare and
85 make available the report or inform the secretary of state how the
86 public may obtain or otherwise gain access to the report. The attorney
87 general shall have the exclusive right to bring a civil action for such
88 violation.

89 5. To ensure that no governmental body or official arbitrarily
90 restricts funds designated for purposes other than stem cell research

91 or stem cell therapies and cures as a means of inhibiting lawful stem
92 cell research or stem cell therapies and cures, no state or local
93 governmental body or official shall eliminate, reduce, deny, or withhold
94 any public funds provided or eligible to be provided to a person that
95 lawfully conducts stem cell research or provides stem cell therapies
96 and cures, allows for such research or therapies and cures to be
97 conducted or provided on its premises, or is otherwise associated with
98 such research or therapies and cures, but otherwise receives or is
99 eligible to receive such public funds for purposes other than such stem
100 cell-related activities, on account of, or otherwise for the purpose of
101 creating disincentives for any person to engage in or otherwise
102 associate with, or preventing, restricting, obstructing, or discouraging
103 such stem cell-related activities.

104 6. As used in this section, the following terms have the following
105 meanings:

106 (1) "Blastocyst", a small mass of cells that results from cell
107 division, caused either by fertilization or somatic cell nuclear transfer,
108 that has not been implanted in a uterus;

109 (2) "Clone or attempt to clone a human being", to implant in a
110 uterus or attempt to implant in a uterus anything other than the
111 product of fertilization of an egg of a human female by a sperm of a
112 human male for the purpose of initiating a pregnancy that could result
113 in the creation of a human fetus, or the birth of a human being;

114 (3) "Donated", donated for use in connection either with scientific
115 or medical research or with medical treatment;

116 (4) "Fertilization", the process whereby an egg of a human female
117 and the sperm of a human male form a zygote;

118 (5) "Human embryonic stem cell research", also referred to as
119 "early stem cell research", any scientific or medical research involving
120 human stem cells derived from in vitro fertilization blastocysts or from
121 somatic cell nuclear transfer. For purposes of this section, human
122 embryonic stem cell research does not include stem cell clinical trials;

123 (6) "In vitro fertilization", fertilization of an egg with a sperm
124 outside the body;

125 (7) "Institutional Review Board", a specially constituted review
126 board established and operating in accordance with federal law as set
127 forth in 42 U.S.C. 289, 45 C.F.R. Part 46, and any other applicable

128 federal statutes and regulations, as amended from time to time;

129 (8) "Permitted under federal law", as it relates to stem cell
130 research and stem cell therapies and cures, any such research,
131 therapies, and cures that are not prohibited under federal law from
132 being conducted or provided, regardless of whether federal funds are
133 made available for such activities;

134 (9) "Person", any natural person, corporation, association,
135 partnership, public or private institution, or other legal entity;

136 (10) "Private or confidential medical, scientific, or other
137 information", any private or confidential patient, medical, or personnel
138 records or matters, intellectual property or work product, whether
139 patentable or not and including but not limited to any scientific or
140 technological innovations in which an entity or person involved in the
141 research has a proprietary interest, prepublication scientific working
142 papers, research, or data, and any other matter excepted from
143 disclosure under chapter 610, RSMo, as amended from time to time.

144 (11) "Solely for the purpose of stem cell research", producing
145 human blastocysts using in vitro fertilization exclusively for stem cell
146 research, but does not include producing any number of human
147 blastocysts for the purpose of treating human infertility;

148 (12) "Sperm", mature spermatozoa or precursor cells such as
149 spermatids and spermatocytes;

150 (13) "Stem cell", a cell that can divide multiple times and give
151 rise to specialized cells in the body, and includes but is not limited to
152 the stem cells generally referred to as (i) adult stem cells that are found
153 in some body tissues, including but not limited to adult stem cells
154 derived from adult body tissues and from discarded umbilical cords
155 and placentas, and (ii) embryonic stem cells, including but not limited
156 to stem cells derived from in vitro fertilization blastocysts and from
157 cell reprogramming techniques such as somatic cell nuclear transfer;

158 (14) "Stem cell clinical trials", federally regulated clinical trials
159 involving stem cells and human subjects designed to develop, or assess
160 or test the efficacy or safety of, medical treatments;

161 (15) "Stem cell research", any scientific or medical research
162 involving stem cells. For purposes of this section, stem cell research
163 does not include stem cell clinical trials;

164 (16) "Stem cell therapies and cures", any medical treatment that

165 involves or otherwise derives from the use of stem cells, and that is
166 used to treat or cure any disease or injury. For purposes of this
167 section, stem cell therapies and cures does include stem cell clinical
168 trials;

169 (17) "Valuable consideration", financial gain or advantage, but
170 does not include reimbursement for reasonable costs incurred in
171 connection with the removal, processing, disposal, preservation, quality
172 control, storage, transfer, or donation of human eggs, sperm, or
173 blastocysts, including lost wages of the donor. Valuable consideration
174 also does not include the consideration paid to a donor of human eggs
175 or sperm by a fertilization clinic or sperm bank, as well as any other
176 consideration expressly allowed by federal law.

177 7. The provisions of this section and of all state and local laws,
178 regulations, rules, charters, ordinances, and other governmental
179 actions shall be construed in favor of the conduct of stem cell research
180 and the provision of stem cell therapies and cures. No state or local
181 law, regulation, rule, charter, ordinance, or other governmental action
182 shall (i) prevent, restrict, obstruct, or discourage any stem cell research
183 or stem cell therapies and cures that are permitted by this section to
184 be conducted or provided, or (ii) create disincentives for any person to
185 engage in or otherwise associate with such research or therapies and
186 cures.

187 8. The provisions of this section are self-executing. All of the
188 provisions of this section are severable. If any provision of this section
189 is found by a court of competent jurisdiction to be unconstitutional or
190 unconstitutionally enacted, the remaining provisions of this section
191 shall be and remain valid.

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